Supreme Court of the United States.

No. 77. October Term, 1902.

William E. Hale, Receiver,

v.

Edward P. Allinson *et al.*

MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIÆ.

Heman W. Chaplin, of Westwood, in the State of Massachusetts, respectfully shows to this Honorable Court the following facts:

1. Said Heman W. Chaplin is an attorney admitted to practice in the Circuit Court of the United States for the First Circuit in the District of Massachusetts and in the United States Circuit Court of Appeals for the First Circuit.

2. There is now pending in said Circuit Court of Appeals a cause begun by writ of error, in which Harriet N. Tyler, as she is administratrix of the goods and estate of Edwin A. Norton, deceased, intestate, is the plaintiff in error, and William E. Hale, described in the record of said cause as the Receiver of the Northwestern Guaranty Loan Company of Minnesota, is the defendant in error; and in said cause said Heman W. Chaplin is attorney of record and counsel for said plaintiff in error.

3. Said writ of error was brought to reverse a recent judgment of the Circuit Court of the United States for the First Circuit, in the District of Massachusetts, for $133,380,

including interest; and, in particular, is based upon alleged errors in overruling a demurrer to the declaration in the action at law in which said judgment was rendered (said demurrer going to the merits), and certain rulings and refusals to rule, at the trial of said action at law, alleged by the plaintiff in error to have been erroneous, and set forth in a bill of exceptions duly allowed.

4. Said action at law was based upon the same records of courts of the State of Minnesota which are relied on in said case of Hale *v.* Allinson, now pending in this Court, being the same records which were also relied on by said William E. Hale, Receiver, as plaintiff in error, in the case of William E. Hale, Receiver, plaintiff in error, *v.* Hardon, defendant in error, reported in 37 C. C. A. 240, and the same relied on by said William E. Hale, Receiver, in the action at law out of which said cause in error, last mentioned, arose; and the conclusions reached and the judgment in said cause of Hale, Receiver, plaintiff in error, *v.* Hardon, defendant in error, were followed by said Circuit Court, in its overruling of the demurrer in said action of Hale, Receiver, *v.* Tyler, administratix; and upon and through those conclusions a verdict was, in said action of Hale, Receiver, *v.* Tyler, administratix, directed for the plaintiff; said conclusions, and each of them, being sought to be reversed in said cause in error of Tyler *v.* Hale.

5. The questions of law involved in said conclusions have been the subject of a serious division of opinion among the different judges in the First Circuit; one of the Circuit judges having ruled upon them in a manner adverse to said Hale, Receiver, at the trial, in said Circuit Court, of said action of said Hale *v.* Hardon; and the other Circuit judge having presented the same views in a dissenting opinion, in said cause of said Hale, Receiver, plaintiff in error, *v.* Hardon, defendant in error; and it appearing, by direction of the Court, in express terms, in the bill of exceptions in said cause of Hale *v.* Tyler, that the Judge at said trial ruled in favor of the plaintiff, upon said questions of law, and directed a verdict for the plaintiff, in opposition to his own

views of the law, but in what he considered to be a necessary yielding to the decision in said cause of Hale, Receiver, plaintiff in error, *v.* Hardon, defendant in error, in said Circuit Court of Appeals. Said propositions of law have also presented themselves and been passed upon in different ways in other suits, still pending, either in Circuit Courts of the United States, or, on appeal, before United States Circuit Courts of Appeals, upon substantially the same record, and upon precisely the same Minnesota records. In all these suits said Hale, Receiver, is plaintiff, and seeks to enforce, in some form, the liability which he seeks in said suit pending in this Court, and sought in said suit of Hale *v.* Tyler.

6. The claim involved in said cause of Tyler, plaintiff in error, *v.* Hale, Receiver, defendant in error, is one of the largest claims, if not the largest, arising in connection with this receivership; and property which the defendant in error in said cause is now seeking to reach, as estate late of said Norton, is of large value, to wit, of the value of not less than $75,000.

7. It would appear that it may be open to this Honorable Court, in said cause of Hale, Receiver, *v.* Allinson, to declare and establish the law in respect of the various questions of law abovementioned, and thereby in effect to determine said pending cause of Tyler, plaintiff in error, *v.* Hale, defendant in error.

In support of the foregoing allegations, said Heman W. Chaplin hereby offers to this Honorable Court, and prays for leave to file herewith, a duly certified copy of the record in said cause of Harriet N. Tyler, plaintiff in error, *v.* William E. Hale, Receiver, defendant in error.

Wherefore said Heman W. Chaplin, being requested so to do by said Harriet N. Tyler, administratrix, respectfully moves this Honorable Court that he be permitted, as *amicus curiæ*, to file in this cause a brief in support of the contentions of the defendants in error here.